

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 12, 2001 at 9:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. James Whitaker (R)

Members Excused: Rep. Rod Bitney, Vice Chairman (R)
Rep. Kathleen Galvin-Halcro (D)
Rep. Brett Tramelli (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB274, SB145, SB432, 3/9/2001
Executive Action: SB74, SB421, SB432

HEARING ON SB274

Sponsor: SEN. BOB KEENAN, SD38, Bigfork

Proponents: Max Agather, Montana Retail Council
Brad Griffin, Montana Retail Assn.
Susan Good, ACHE
Claudia Clifford, State Auditor's Office
Tanya Ask, BCBS
Tom Clinch, New West Health Services
Don Allen, Montana Benefits and Life
Don Judge, MT AFL-CIO

Opponents: None

Opening Statement by Sponsor:

SEN. BOB KEENAN, SD38, Bigfork, said the bill came to the committee today as a result of a conversation he had with an insurance agent who was having difficulty obtaining loss runs for his group from his existing carrier and the carrier, Western Mutual in Utah, did not want to provide that loss run. The agent was frustrated with that. SEN. KEENAN noted he had spent a lot of time on human services committees in the past years studying the high cost of medical care. He said he thought this bill tied in with the concerns of the uninsured. He speculated that in 2-4 years uninsured individuals would be one the greatest concerns facing the legislature. He said this bill does a little in trying to bring competitive prices to insurance by forcing the carriers to provide loss runs so when a company wants to go for bids, there will be a competitive market. He said the bill has a few amendments. **EXHIBIT** (buh56a01)

Proponents' Testimony:

Mr. Agather said the number one problem with insurance is cost. He said small businesses and individuals suffer most because they have no bargaining position. He said when groups are combined, there can be competitive bidding, which this bill will help with.

Mr. Griffin said there is power in numbers, and his members created a health pool of 4000 45 years ago. He said it makes sense to get a loss run on a group so it can be taken to the marketplace for a bid.

Ms. Good said she spoke for a patient advocacy group and was interested in increasing competition within the marketplace. She added that patient information should be available.

Ms. Clifford said this was a good bill to facilitate competition in the marketplace. She said there was nothing now in statute that said patient information could be obtained.

Ms. Ask said she had a couple of amendments for the committee to look at. **EXHIBIT(buh56a02)** The first amendment clarified that employers or associations can request the information once a year. The second amendment removes the small group marketplace, between 2-50 employees, from the requirements because they are already being overseen, she said.

Don Judge, Don Allen, and Tom Clinch also spoke to support the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. PRICE asked **Mr. Agather** if he approved of the amendment. He answered he did. **REP. PRICE** asked him why small groups and individuals should be excluded. **Mr. Agather** said that the information could be mis-used to fire or terminate employees to get lower rates. Also, he added, small group rating is overseen by the Insurance Commissioner's office.

REP. JUNEAU asked why "insurance product" was crossed out of the title. **Ms. Clifford** said it was taken out because the information needs to come from a company, not an agent. **REP. JUNEAU** asked who initiated the request. **Ms. Clifford** said the group or the agent could, but they did not have access.

Closing by Sponsor:

SEN. KEENAN said he was stunned and pleased with the testimony after the close he had been through on the Senate side, and he thanked the proponents for working out the amendments which would help the consumers of Montana.

{Tape : 1; Side : A; Approx. Time Counter : 20.3}

HEARING ON SB145

Sponsor: SEN. BERRY, SD30, HAMILTON

Proponents: Carl Swanson, Montana State Fund
Jack Morganstern, State Fund
Tom Schneider, Montana Public Employees Assn.
John McEwen, Department of Administration
Aidan Myhre, Montana Chamber of Commerce
Roger McGlenn, IIAM
Riley Johnson, NFIB
Jacqueline Lenmark, AIA

Opponents: Don Judge, MT AFL-CIO

Opening Statement by Sponsor:

SEN. DALE BERRY, SD30, HAMILTON, said the bill was brought on behalf of the State Fund and was about an alternative personal leave program which did not change the total number of days, but allowed flexibility in the use of those days. He said it also removed administrative expenditure limits. He said the premiums have gone down tremendously and this had put a restriction on the administrative budget, and in fact, it is at the cap right now. He said it also addresses the need on Flathead Lake for longshoreman to be included. The ability to offer scholarships was also being requested, he said, in order to help them compete with the private market. These would go to the children of injured or deceased workers, or might go to fire departments for safety training, he said. The printing exception would be for high-end promotion printing, he said, and 80% would still go to the state printing office. **EXHIBIT (buh56a03)**

Proponents' Testimony:

Mr. Swanson said he had been president of the Montana State Fund since 1994. He said the State Fund is funded solely by the premiums of businesses who choose to insure with it. He said it is not funded by taxpayer dollars. He explained that workers compensation coverage is mandatory by the law for any business which has employees. He presented written testimony.

EXHIBIT (buh56a04) EXHIBIT (buh56a05)

{Tape : 1; Side : B; Approx. Time Counter : 0}

Mr. Morganstern asked the committee to support the bill and said he hoped they were as proud as he was of what they do at the State Fund. He said the bill does some "tweaking" which will help them do their job better. He said they had a great management

team so administrative costs won't "blossom." He said a private carrier would require \$10 million more dollars to do what they do. He continued that they operate with 30% less overhead than a private peer group.

Mr. Schneider said he represented employees who work at the State Fund and negotiate for their benefits. He said he was in favor of the part in Section 1 that enabled the change in the benefit package.

Mr. McEwen said he too favored alternative ways of awarding leave.

Ms. Myhre said she supported a strong and healthy State Fund. She added even though there is the three-tiered system, often the State Fund is the only way for some businesses.

Mr. McGlenn said his organization supported the bill because his members now have the ability to sell insurance through the State Fund.

Mr. Johnson said his 7000 members used the State Fund more than any other group. He recounted the history of the State Fund, saying that rates had been cut by 45%, and his members have saved millions of dollars. He encouraged the committee to let the team manage the fund as a business.

Ms. Lenmark said her members think the three-way system is best. She explained the State Fund is Plan 3, the market of last resort for those who cannot find another appropriate way to insure workers. She said the State Fund had been stabilized through excellent management. She said competition was the key, and that although the State Fund had some advantages, they were appropriate for the function it serves.

Opponents' Testimony:

Mr. Judge opposed removing the cap entirely and using the fund resources for scholarships, education and charitable purposes. He said his concerns were the priorities of the fund. He said the Department of Labor did a comparison of 18 states and Montana was the only one that denied retroactive benefits, and travel pay for injured workers. He also said Montana's total temporary disability benefits were lower. At the same time, he noted, bonuses were paid to administrators, and workers' benefits were lowered. He also asserted there was more employer fraud.

{Tape : 2; Side : A; Approx. Time Counter : 0}

He concluded there is more than the glory side to the story. He said workers have suffered and are below average in benefits.

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. Swanson** how they rate now if not on a tier system. **Mr. Swanson** said it was on a tier system, it was just different terminology. He said the number of businesses had decreased from 26,000 to 24,000, and the premiums have decreased by half. **REP. LAIBLE** asked him about the cap. **Mr. Swanson** said 27 other states have funds and none of them have caps. He said the market has changed so much there is no more room in Montana's cap. He said the MT AFL-CIO should consider what impact this would have in the injured employees they could no longer serve.

REP. GALLIK asked how much would be given to the scholarships, education and charity category. **Mr. Swanson** said \$115,000 in scholarships and \$15-20,000 in charities. **REP. GALLIK** said if the money wasn't used like this, wouldn't it lower the premiums. **Mr. Swanson** said no, because these are funded on the investment return on the surplus. **REP. GALLIK** asked how much had been paid in salary bonuses and why. **Mr. Swanson** said they did not have bonuses but there were incentive programs for meeting financial goals and objectives. **REP. GALLIK** asked if the high-end printing was not possible within the state system. **Mr. Swanson** said this would be for marketing materials and annual reports on glossy paper, and would amount to about 20% of their printing budget, with the rest being done by the state.

REP. BROWN said he was having trouble getting comfortable with this bill because since premiums have are less than half, there should be less business and yet they want to take off the cap completely. He said it made logical sense that if there is less income and less business to serve, they would have to cut administration. **Mr. Swanson** said they were there because they wanted to be pro-active. He said their revenue had declined because of good things. He said the rate decline had produced very little change in the work load. He said 13,000 businesses pay them less than \$1000. He cited the fact their administrative costs run 33% is good management. He said private funds operate at 45% for administrative costs. He said, "We need the flexibility to continue to run the fund."

REP. WHITAKER asked **Mr. Swanson** how much printing was he talking about. **Mr. Swanson** said \$250,000, which also included some radio and TV. **REP. WHITAKER** then said he was concerned if the money was going out of state. **Mr. Swanson** said all the printing would be done in Montana.

REP. LAWSON asked what caused the change in ratios. **Mr. Swanson** said years ago they had unbelievably high expense ratios. They also had a high case load because they were not doing the things they needed to do. He said these expenses increased the ability to manage and save costs in premiums, and that caused the revenues to come down.

{Tape : 2; Side : B; Approx. Time Counter : 0}

He said if the staff came to him and showed him a program which would reduce costs, he looked at it. **REP. LAWSON** said he still wondered why the premiums were leveling off. **Mr. Swanson** said it was because of the premiums leveling off. **REP. LAWSON** asked about the changes in the personal leave plan. **Mr. Swanson** said this allows flexibility for employees, and other businesses are moving toward this. He said with the changes, annual sick leave and personal leave would be combined.

{Tape : 2; Side : B; Approx. Time Counter : 4.8}

REP. PRICE asked no matter where the committee went with the cap, if he would come back and tell them where they were. **Mr. Swanson** said they provide this information to the Board of Directors annually.

{Tape : 2; Side : B; Approx. Time Counter : 7}

REP. LAIBLE asked **Ms. Lenmark** how the administrative expense ratio of 33% for the State Fund and 45% for private funds compared in her opinion, and didn't the state have an advantage. **Ms. Lenmark** said she had not seen the comparison figures before, but these figures reflected the expense ratio, not a comparison of changing rates. He asked her if the rates were comparable. She said several sessions ago the law was amended to regulate loss cost. She said the rating method is to collect the loss information and file it with the Insurance Commissioner. She said the State Fund also has loss information in their data base and uses a similar method to build rates, and their rates should be competitive with private carriers. **REP. LAIBLE** asked her, "Even though the expenses are less, their rates are comparable with private carriers?" **Ms. Lenmark** replied, "They are competitive."

REP. KEANE requested **Mr. Swanson** to provide the committee with the names of employees and the financial incentives they had received for the last three years.

REP. JUNEAU asked **Mr. Morganstern** how the State Fund board members were selected and how they were compensated. He said they

were appointed by the **Governor** and they do not receive any pay, other than travel and per diem. She asked if any employers participated. He replied that several must be customers and recipients. She asked if he could provide a list of employees and salaries. He said he would.

REP. JUNEAU asked **Mr. Swanson** about the scholarship, education and charity funds. He said these funds go to the children of deceased or injured employees. He called these funds "a social responsibility and good community relations."

Closing by Sponsor:

SEN. BERRY said the State Fund is run like a private business. "Don't let us return to a state agency mentality, or it will be bankrupt again," he said. He noted the efficiency of the fund has brought premiums down. He said state agencies have no competition, but the insurance for workers' compensation is competitive. He said the employees at the State Fund are good at what they do, and they do not want to lose them to private business.

{Tape : 3; Side : A; Approx. Time Counter : 0}

HEARING ON SB432

Sponsor: **SEN. MIKE TAYLOR, SD37, LAKE CO.**

Proponents: **Dave Micheletti, MSE, Butte**
Don. Peeples, MSE, Butte
Andy Poole, Department of Commerce

Opponents: None

Opening Statement by Sponsor:

SEN. MIKE TAYLOR, SD37, LAKE CO. said this bill pertained to the aerospace industry. He said a similar bill had passed in Special Session and when it went into the application period, there was a problem with the language so it "hit a snag" on the funding. Because of this Montana lost out on a large aerospace project in Missoula which has since opened in Nevada. This project will start to deliver goods and services next year, he said. He said now there was another opportunity on the horizon and the bonding authority had worked with the Senate so there should be no problem. He told the committee that MSE in Butte was close to

getting a wind tunnel, and if they could get it , this would put Montana in the space industry business. This would lead to the next project, he said, and it was unbelievable what could happen as a result. He said there are over 200 people working in Butte to develop this technology. He said the bill would authorize the board of examiners to issue and sell general obligation bonds in an amount not to exceed \$20 million. He said by passing his bill he believed there was a 90% chance of getting the wind tunnel in Butte. He presented an article explaining the use of wind tunnels in the aerospace industry. **EXHIBIT (buh56a06)**

Proponents' Testimony:

Mr. Micheletti said his company was leading in the development of this technology for NASA and the USAF. He said the USA right now relies on rocket propulsion systems to go into space. He said the next generation will use air breathing engines. The problem with all rocket systems, he said, is they have to carry their own oxygen supply. "It costs too much to put payloads into space now," he said. He noted that studies show wind tunnels can simulate Mach 8-15 speeds. His company is leading the nation's only effort to do this, he said. They would be building the world's first hypersonic wind tunnel in Butte, he continued. "This will put Montana at the forefront and serve as a magnet for customers to locate nearby, which would lead to other economic opportunities," he said. He explained the program is underfunded in the USAF. There are two experiments ready to start, he said, 1) a nozzle which could survive the pressure, and, 2) electronic beam technology. He said the City of Butte had already put up \$500,000 for the world's first hypersonic wind tunnel.

Mr. Peeples said the whole essence of the bill is to put Montana in the forefront of aerospace development so it can become a major player in this area. He said sixty percent of their employees are graduates of Montana universities, and they employee a dozen PHD's and 50 master level engineer people. He said their company was based on developing Montana's economy through the development of technology. He said aerospace research was a significant part of their company. He noted they have invested their own dollars and have received funding from USAF. He said this will have a direct economic impact not only for Butte, but for Montana.

Mr. Poole said he supported the bill and that it merely modified what already existed in statute concerning the \$20 million for general obligation bonds.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE asked if the \$20 million was to be used for land or other things and how the corporation was structured. **Mr.**

Micheletti said there were two major experiments: 1) nozzle survival experiments, and, 2) Electron beam energy to high speed air flow. He said that because of budget cutbacks, the USAF was unable to fund these projects. If Montana could help, these experiments would be done in Butte, he said. He noted the company already had the land and the facilities.

REP. LAIBLE asked about the corporate structure. **Mr. Peeples** said MSE was a for profit company, and a corporate taxpayer. He noted the experiment would be located within an explosion-proof building which already exists.

{Tape : 3; Side : B; Approx. Time Counter : 0}

REP. BOOKOUT-REINICKE said the testimony indicated the money would be spent on hardware, and the bill said it would be spent on infrastructure, so which was it. **Mr. Micheletti** said it refers to test equipment which is called infrastructure in the aerospace industry. He said this is not the same as public works infrastructure.

REP. BROWN asked **SEN. TAYLOR** if he was sure the things listed are what he wanted the bill to do, so what happened last time wouldn't happen. **SEN. TAYLOR** said he felt everything had been covered carefully. **Mr. Poole** said he too believed there was an enumeration of the kinds of infrastructure . He said he believed the project may take \$2 - 3 million, and that the rest of the money would be available for other projects up to the \$20 million.

REP. GALLIK asked **Mr. Poole** if the backing for the bonds was from the coal trust. **Mr. Poole** said it was from the State General Revenue Fund.

REPs. MUSGROVE and **BOOKOUT-REINICKE** asked questions related to energy resources in the Butte area. **Mr. Micheletti** said Montana had adequate power generation facilities for their project.

Closing by Sponsor:

SEN. TAYLOR said this was an important piece of legislation which has already been in law. He continued saying the **Governor** supports the bill wholeheartedly. He asked **CHAIRMAN MCKENNEY** to carry the bill on the floor.

EXECUTIVE ACTION ON SB432

Motion: REP. LAIBLE moved that SB432 BE CONCURRED IN.

Discussion:

REP. MATTHEWS asked when they would be paying this money back.

CHAIRMAN MCKENNEY said these are general obligation bonds and the state is responsible for them if they are not paid. He said the bill will lead to an increase in jobs and in income taxes which is the key to bond payback. He said if there was not enough income projected these bonds were not issued.

REP. JUNEAU said she thought it seemed like a good idea but she didn't see any Butte endorsers.

REP. KEANE said he hoped that was just an oversight. He noted this had about as high a potential as the committee had seen for economic development. He pointed out that Butte-Silver Bow had already "stepped up to the plate."

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB74

Motion: REP. LAIBLE moved that SB74 BE CONCURRED IN.

Vote: Motion carried unanimously.

REP. STEINBEISSER will carry this bill in the House.

EXECUTIVE ACTION ON SB421

Motion: REP. LAIBLE moved that SB421 BE CONCURRED IN.

Discussion:

REP. LAIBLE said after a long discussion with Ms. Jamison, he had come up with one amendment to change 45 days to 60 days. He said,

otherwise, he thought it was a probably a pretty good bill which would help local auto dealers.

Motion: REP. LAIBLE moved that **SB421 BE AMENDED.**

{Tape : 4; Side : A; Approx. Time Counter : 0}

Discussion:

REP. MUSGROVE asked if these were working days or calendar days.

REP. BOOKOUT-REINICKE said she recalled the testimony was "working days."

REP. MATTHEWS said that 45 days was reasonable and he was probably going to vote no on the amendment.

CHAIRMAN MCKENNEY said with this amendment he would vote for the bill.

Vote: Motion **carried 14-5 with Keane, Lawson, Matthews, Price, and Tramelli voting no.**

Motion: REP. LAIBLE moved that **HB421 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. GALLIK said he was voting against the bill because he saw inconsistencies in it.

REP. STEINBEISSER said it was a good bill, and added that car dealers had a tough time making it today.

REP. LAIBLE called it a good bill and said it would give dealers more footing with manufacturers.

Vote: Motion **carried 18-1 with Gallik voting no.**

REP. STEINBEISSER will carry the bill in the House.

ADJOURNMENT

Adjournment: 12:30 P.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh56aad)